IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 12TH APRIL 2007 / 22ND CHAITHRA 1929

WA.No. 1024 of 2007()

AGAINST THE JUDGEMENT/ORDER IN WPC.34741/2003 Dated 20/06/2006
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APPELLANT: WRIT PETITIONER

O.V.USHA,
DIRECTOR AND HEAD (RTD.), DEPARTMENT OF PRINTING & PUBLISHING, MAHATMA GANDHI UNIVERSITY, ATHIRAMPUZHA, KOTTAYAM.

BY ADV. SRI.BABU VARGHESE
SRI.S.R.AJITH

RESPONDENTS: RESPONDENTS
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1. THE MAHATMA GANDHI UNIVERSITY, REPRESENTED BY ITS REGISTRAR, PRIYADARSHINI HILLS P.O., KOTTAYAM.

2. THE SYNDICATE OF THE MAHATMA GANDHI UNIVERSITY, REPRESENTED BY CHAIRMAN, MAHATMA GANDHI UNIVERSITY, KOTTAYAM.

3. THE VICE-CHANCELLOR, MAHATMA GANDHI UNIVERSITY, KOTTAYAM.

BY SRI.V.A.MUHAMMED, SC, M.G.UNIVERSITY

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 12/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN & ANTONY DOMINIC, JJ.
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W.A.NO. 1024 OF 2007
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Dated this the 12th day of April, 2007

J U D G M E N T

Raman, J.

The appellant is the petitioner in the writ petition. The question that arises for consideration is as to whether the appellant was holding a teacher's post and whether the retirement age of the appellant is 60 years instead of 55 years, which is applicable for non teaching staff. The petitioner was holding the post of Director, Printing and Publishing Department, Mahatma Gandhi University. That Department was established sometimes in 1988 March. The University also accorded sanction for starting a Post Graduate Diploma Course in Printing and Publishing in the Department of Printing and Publishing of the University from 1988-89, as per Ext.P2 produced in the case.

2. According to the petitioner, after the introduction of the Post Graduate Diploma Course in the said Department, she has been in charge of the Department and was teaching the students for Post Graduate Diploma course. However,

subsequently in 1992, the Post Graduate Diploma course was discontinued. According to the petitioner, she was selected by a Committee constituted as per Chapter 3 of the University Statute as in the case of Professors and other teachers and according to her this is also a Department of Research and Studies enumerated in Chapter 42 of the Statute. She also place reliance on Annexure A1 to show that in the case of Programme Coordinator, a similar dispute arose, which was directed to be resolved by the Vice Chancellor and various parameters with reference to which the issue was examined and finally it was decided that Programme Coordinators post is a teaching post. Annexure A2 is an order implementing Annexure A1, whereby the Programme Coordinator was allowed to continue upto the age of 60 years. Annexures A1 and A2 were produced at the appellate stage. The age of retirement of the petitioner was held to be 55 years by the University which was subject matter of challenge in the writ petition. Learned Single Judge found that in the absence

of materials to show that the appellant/petitioner was imparting instructions or supervising research and hence a teacher as defined in Section 2(29) of the Act, no relief could be granted. Therefore, there is no occasion for this Court to consider the various aspects which were considered while Annexure A1 decision was taken. The question ultimately as to whether the post held by the petitioner has to be treated as a teaching post or not will depend on variety of factors as evidenced by Annexure A1 itself. Therefore, in these circumstances, we feel that it is only appropriate that the petitioner may file a detailed representation with supporting materials before the Vice Chancellor of the Mahatma Gandhi University, the 3rd respondent herein, who after affording an opportunity to the petitioner for being heard, shall take a final decision in the matter.

3. In the view we have taken, necessarily, we will have to vacate the finding of the learned Single Judge on merits. It will be open to the Vice Chancellor to take an independent decision of

the matter and communicate the order to the petitioner. Such decision shall be taken as expeditiously as possible, at any rate within a period of three months from the date of receipt of the representation. The representation shall be submitted within two weeks from today.

Writ appeal is disposed of as above.

P.R.RAMAN, JUDGE.

ANTONY DOMINIC, JUDGE.

Rp